



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,

CR 11-40056

Plaintiff,

INDICTMENT

vs.

Mail Fraud; Wire Fraud

BRADLEY WHITSELL,

18 U.S.C. §§ 1341; 1343

Defendant.

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The Grand Jury charges:

A. Introduction and Overview of the Fraud:

1. Beginning on or about January 1, 2000, and continuing through on or about May 31, 2010, all dates approximate and inclusive, in the District of South Dakota and elsewhere, the Defendant, Bradley Whitsell, was an executive at SDN Communications ("SDN"). Over the course of the relevant time period, his titles included Director of Corporate Operations, Chief Financial Officer, President of SDN Technology Division, and Vice President of Administration and Human Resources.

2. During that relevant time period, Defendant used his various oversight positions to embezzle funds totaling approximately \$392,111.65. He did so in various ways. Of that amount, approximately \$367,255.07 involved mailings and electronic wires as described in more detail below.

B. Company Credit Cards

3. During the relevant time period, Defendant was authorized to use a company credit card. SDN paid the bills for the card, and company policy dictated that its use was limited to official expenditures for travel and other legitimate business purposes. Over the course of the relevant time period, Defendant used four separate company credit cards. Between September 1, 2000, and May 31, 2010, Defendant used these company credit cards to make personal, unauthorized purchases totaling \$62,852.71.

4. Defendant's misuse of the credit cards involved the use of the mails in that, from approximately September 1, 2000, through May 31, 2010, SDN received via U.S. Mail monthly credit card bills that included defendant's personal expenses, and an employee of SDN would write a check each month from an SDN account that was then sent via U.S. Mail, depending on the card, to either U.S. Bank in St. Louis, Missouri, U.S. Bancorp in Fargo, North Dakota, or American Express in Dallas, Texas.

5. Defendant's misuse of the credit cards also involved wire transmissions in interstate and foreign commerce in that, from approximately May 31, 2005, through July 31, 2010, payments to U.S. Bank were made by SDN via electronic transmission. Such payments were made once each month.

6. The breakdown of the mailings and electronic wires Defendant caused to be made in furtherance of his scheme and artifice to defraud is depicted in the table below.

<b>Bank</b>	<b>Account (last 4 digits)</b>	<b>Address</b>	<b>Monthly Mailings/Wires</b>	<b>Dollar Amount</b>
U.S. Bank	5755	P.O. Box 790408 St. Louis, Mo	4/2004 - 5/2005 by mail; 5/2005 - 12/2005 by wire	\$ 9,503.96
U.S. Bancorp	8324	P.O. Box 6310 Fargo, ND	8/2000 - 3/2004 by mail	\$16,978.94
U.S. Bank	7697	P.O. Box 790408 St. Louis, Mo	12/2005 - 7/2010 by wire	\$27,377.04
American Express	1008	P.O. Box 650448 Dallas, TX	6/2009 - 5/2010 by mail	\$ 8,992.77
<b>Total:</b>				\$62,852.71

C. Company Checks

7. Between approximately July 1, 2003, and January 31, 2010, Defendant regularly caused company checks to be issued for various of his personal expenses, including his personal credit card, tuition at a Sioux Falls private school, and, in some cases, checks issued directly to himself. Defendant accomplished this by accessing SDN's accounts payable computer system. He would then replace a legitimate vendor name with either his own name or the

name of the company or organization to whom he owed money. In this way, Defendant created company checks using his office printer. To cover his tracks, Defendant then reentered the legitimate vendor name into the computer system.

8. Defendant's issuance of unauthorized company checks to pay his personal expenses involved the use of the mails in that the cancelled checks along with the bank statements were returned to SDN from First Premier Bank via U.S. Mail. Defendant concealed his scheme to defraud by routinely taking the cancelled checks and statements out of the mail before other employees could see them. His explanation for doing this was that he needed to look at the checks first so he could take out all the payroll checks in order to protect the confidentiality of employee salaries.

9. During the relevant time period, Defendant caused approximately \$169,578.55 in unauthorized company checks to be issued to himself and to companies and organizations to whom he owed money for personal expenses.

D. Voucher Fraud

10. Between approximately June 1, 2000, and May 31, 2010, Defendant turned in various vouchers to SDN, requesting reimbursement for what he claimed were company expenses he purchased on his own. In fact, Defendant paid the claimed expenses either with a company credit card (for which SDN paid the bill directly) or with an SDN company check.

11. With the money he obtained from the ~~fraudulent~~ vouchers, defendant paid off a variety of personal debts, including a home equity line of credit and a large landscaping project at his personal residence. An additional portion of this fraudulent voucher money paid for private school tuition and for Defendant's country club membership.

12. Defendant's scheme involving fraudulent vouchers caused mailings and interstate wire transmissions in that, in addition to issuing defendant checks in response to his vouchers, SDN also paid defendant's company credit card bills containing the submitted expenses. Those credit card payments were made by SDN via interstate wire transmissions and via payments sent through U.S. Mail.

13. The breakdown of the mailings and electronic wires Defendant caused to be made in furtherance of his unauthorized voucher scheme and artifice to defraud is depicted in the table below.

<b>Bank</b>	<b>Account (last 4 digits)</b>	<b>Address</b>	<b>Monthly Mailings/Wires</b>	<b>Dollar Amount</b>
U.S. Bank	5755	P.O. Box 790408 St. Louis, Mo	6/2001 - 5/2005 by mail; 5/2005 - 12/2005 by wire	\$25,478.94
U.S. Bancorp	8324	P.O. Box 6310 Fargo, ND	10/2000 - 11/2000 by mail	\$ 484.54
U.S. Bank	7697	P.O. Box 790408 St. Louis, Mo	1/2006 - 5/2010 by wire	\$29,729.23

American Express	1008	P.O. Box 650448 Dallas, TX	9/2009 - 5/2010 by mail	\$ 9,732.29
<b>Total:</b>				\$65,425.00

14. In addition, Defendant engaged in another, slightly different fraudulent voucher scheme, in which he submitted vouchers to SDN for expenses that he claimed he had paid with his own funds, when in fact those expenses had already been paid with an SDN company check.

15. Defendant's scheme involving submitting fraudulent vouchers for expenses already paid with SDN company checks involved the use of the mails in that the cancelled accounts payable checks from First Premier Bank (the actual payment for the expenses) were sent via U.S. Mail to SDN with the monthly bank statements. Also, bank statements reflecting the payroll reimbursement checks to Defendant (the proceeds of the fraud) were also sent by First Premier Bank to SDN via U.S. Mail each month.

16. Between approximately October 12, 2000, and approximately April 30, 2010, Defendant's scheme in which he submitted fraudulent vouchers for expenses already paid with SDN company checks involved the transactions depicted in the table below. These transactions each resulted in mailings in that they led to cancelled checks and bank statements being mailed to SDN.

<b>Payroll Re- imbursement Check Date (Checks Issued to Defendant)</b>	<b>Payroll Check Number</b>	<b>SDN Accounts Payable Date (Checks Issued to Vendors)</b>	<b>Accounts Payable Check Number</b>	<b>Voucher/ Check Amount</b>
10/12/2000	661	11/27/2000	16208	\$ 7,248.26
4/12/2001	1044	5/29/2001	17953	\$ 6,345.16
4/21/2005	6635	4/7/2005	33739	\$ 2,500.00
1/12/2006	7851	1/11/2006	036546	\$13,240.00
4/20/2006	8358	4/18/2006	037439	\$14,140.32
11/16/2006	9485	11/20/2006	039677	\$ 6,405.70
4/19/2007	10323	4/18/2007	041110	\$ 5,000.00
8/21/2008	13429	8/11/2008	045941	\$ 2,287.29
8/20/2009	16277	8/27/2009	049990	\$ 3,112.76
4/15/2010	1827	4/12/2010	052547	\$ 9,119.32
<b>Total:</b>				\$69,398.81

COUNT ONE  
(Mail Fraud)

17. Paragraphs 1 through 16 are hereby realleged as if set forth fully.

18. The object of Defendant's scheme and artifice to defraud was to enrich himself by obtaining fraudulent funds for his own personal use.

19. Beginning on or about January 1, 2000, and continuing through on or about May 31, 2010, all dates approximate and inclusive, in the District of South Dakota and elsewhere, the Defendant, Bradley Whitsell, did willfully and unlawfully devise and intend to devise a scheme and artifice to defraud for

obtaining money and property from others by means of false and fraudulent pretenses, representations, and promises. For the purpose of executing such scheme and artifice, Defendant did cause to be mailed matters and things to be sent and delivered by the United States Postal Service, and he did take and receive matters and things that had been sent and delivered by the United States Postal Service, all in violation of 18 U.S.C. § 1341.

COUNT TWO  
(Wire Fraud)

20. Paragraphs 1 through 16 are hereby realleged as if set forth fully.

21. The object of Defendant's scheme and artifice to defraud was to enrich himself by obtaining fraudulent funds for his own personal use.

22. Beginning on or about January 1, 2000, and continuing through on or about July 31, 2010, all dates approximate and inclusive, in the District of South Dakota and elsewhere, the Defendant, Bradley Whitsell, having devised the above-described scheme and artifice to defraud, caused communications to be sent and did knowingly use and cause communications to be transmitted in interstate and foreign commerce, by means of a wire communication, writings, signs, signals, and sounds, for the purpose of executing such scheme and artifice, all in violation of 18 U.S.C. § 1343.

A TRUE BILL:

A handwritten signature in black ink, appearing to read "L. J. Bu", is written over a horizontal line.

Foreperson



BRENDAN V. JOHNSON  
UNITED STATES ATTORNEY

By: 